

CSEA FAQs on H1N1 and Seasonal Flu Vaccination

Who does the NYSDOH's emergency vaccination rule apply to?

The regulation applies to all personnel who:

1. are affiliated with hospitals, diagnostic and treatment centers, home care agencies (licensed under Article 36 of the PHL including certified home health agencies (CHHAs)), licensed home care services agencies, long-term home health programs (including AIDS home care programs), and hospices, and
2. are paid or unpaid, including but not limited to employees, members of the medical staff, contract staff, students, and volunteers, and either
 - a. have direct contact with patients, or
 - b. perform duties that could infect patients or staff with direct patient contact, if they were ill.

How can it be determined which personnel have "direct contact"?

"Direct contact" refers to persons who, if they were infected with influenza, could transmit the disease to a patient. Large-particle respiratory droplets that do not remain suspended in the air primarily transmit influenza. Therefore, direct contact would be either through sharing a 6-foot space with a patient (person-to-person contact) or a surface that comes in contact with a patient (equipment-to-patient contact).

Do staff members who routinely interact with direct care staff (see above) but don't have patient contact need to be vaccinated?

Yes. The regulation **includes persons not directly involved in patient care but potentially exposed to infectious agents that can be transmitted to and from direct care staff** (e.g., clerical, dietary, housekeeping, maintenance, and volunteers who work in patient areas or have contact with staff who do (see next question).

Do staff members who have only incidental contact with direct care staff need to be vaccinated?

No. **Staff who have only incidental contact with direct care staff** in the course of their work or volunteer activities **do not need to be vaccinated.** Examples would be passing through nonpatient unit hospital hallways, using public rest rooms, eating in the cafeteria, or riding in nonpatient transport hospital elevators.

Are there any exemptions for immunization?

Yes. Medical contraindications recognized by American Conference on Immunization Practices (ACIP) will be permitted. These ACIP contraindications and precautions are posted on the NYSDOH website to guide determinations made by individual practitioners as to the existence of a medical contraindication. **Individuals may also receive a note from a licensed health care professional stating that they should not receive the vaccination.** There is **no legal requirement to allow religious exemptions** to influenza vaccination.

What happens if I refuse to get the vaccine(s)?

There may be **negative repercussions for refusing** to submit to the mandatory vaccinations. If directed by an employer to submit to the vaccination, failure to comply with the order **may result in disciplinary action on the basis of insubordination.**

Are long term care facilities affected by this regulation?

No. Nursing homes, adult homes and adult day treatment facilities and any other organization providing residential housing and supportive services to 5 or more persons, over the age of 65 who are unrelated to the operator are subject to PHL Article 21A, **are only required to "offer" flu vaccine each year to their employees.**

Are there instances where a program at a county health department could be defined as a diagnostic and treatment center (D&TC)?

Yes. The regulation **does apply to county facilities** that are **licensed as a D&TCs.**

Who should members contact if they have any questions?

Members should contact staff at their Regional Offices if they have questions:

Long Island - Region 1: (631)-462-0030

Southern - Region 3: (800)-757-2732

Central - Region 5: (800)-559-7975

Metropolitan - Region 2: (212)-406-2156

Capital - Region 4: (800)-874-7344

Western - Region 6: (866)-568-7734

CSEA's Legal Department is working to determine the legalities of the New York State Department of Health's (NYSDOH's) Emergency Rule requiring some workers to get the H1N1 and seasonal flu vaccinations. CSEA is also monitoring the implementation of the emergency rule on our members, and is evaluating any potential legal challenges as they arise. CSEA field staff is also working to ensure that the requirements of the Emergency Rule are only applied to those employees for whom it is intended.